

THE

W I L L

OF

BENJAMIN DEARBORN, ESQ.

B O S T O N ,

J U L Y 2 , 1 8 3 2 .

HENRY PLYMPTON, EXECUTOR.

B O S T O N :

1859.

J. H. EASTBURN'S PRESS.

Published in accordance with the requisition of the Will of BENJAMIN
DEARBORN, Esq., deceased, by HENRY PLYMPTON, Executor.

BOSTON, MAY 18, 1838.

W I L L

OF

BENJAMIN DEARBORN.

I, BENJAMIN DEARBORN, of Boston, in the County of Suffolk, Esquire, do make this my last Will and Testament.

First. I direct that all my just debts be paid.

Second. Previous to my late Marriage, I contracted to secure to my Wife and her two daughters, one third part of the income of my Real Estate during their lives, and during the life of the last survivor of the three individuals.

This conveyance is expressly designed in lieu of my wife's dower, and it is my desire that the contract be faithfully fulfilled; for this purpose it is recorded with Suffolk Deeds, Lib. 344, Fol. 157, and three other copies of that contract are preserved; one of which is in charge of my wife, one in charge of Benjamin Bangs, Esquire, and the third in my own possession. It is my wish that my Dwelling House in Avon Place may continue to be pleasing to my wife, as her place of residence, and that its use, at a moderate rent, may constitute part of the income secured to her by the contract above mentioned; but on this subject I only express a wish, without dictating; for it is my desire, that *her own choice* may be the governing principle in selecting a Dwelling for herself and family, with full liberty to take a residence in any place she may prefer, either at housekeeping or

boarding. Influenced by this desire, I direct that during the time in which my house in Avon Place shall be occupied by my wife or her daughters, or by my son John M. Dearborn, the rent of said House shall be estimated at twenty dollars per calender month, being at the rate of two hundred and forty dollars per annum. This sum is less than three and a half per cent. on the value of the estate, if my improvements be added to the first cost.

Third. In compliance with the contract named in the preceding section, I direct that from and after my decease, one third part of the income of my Real Estate be paid to my wife, in monthly instalments, or in any other manner which may be more acceptable to her, the rent above specified constituting a proportion of said third part of income, while she continues to occupy the premises.

And if her daughters Hannah and Ellen, or either of them survives their mother, the same third part of income is to be paid to them, or to the survivor during life; and after the decease of my wife and both of the said daughters, the third part of said income allotted to them, will be devoted to the charitable purpose expressed in the fifth section of this will.

Fourth. After appropriating one third part of the income of my Real Estate in the manner described in the preceding Sections, I direct that the remaining two thirds of that income be divided into ten equal shares, for the benefit of the following devisees,—namely—ONE SHARE I give to my wife in addition to the said third part of my income, which was before secured to her by contract; and it is my intention that this share shall be continued to her during her life, and that it shall descend to her two daughters Hannah and Ellen, or either of them who may survive their mother, in the

same manner as if this share were included in the said contract. ONE SHARE I give to Mrs. Hannah Nye Dearborn during her life, and I direct that it be continued to her husband Mr. John M. Dearborn, during his life, if he survives her. ONE SHARE I give to Miss Helen Maria Freeman during her life.

TWO SHARES I give to my son John M. Dearborn during his life, and I direct that they be continued to his wife Hannah during her life, if she survives him.

ONE SHARE I give to my daughter Mrs. Fanny Hanham, (now residing in Savannah, Georgia) during her life, and I direct that it be continued to her husband James R. Hanham, Esq., during his life, if he survives her. ONE SHARE I give to Mrs. Caroline Howes, (formerly Miss Caroline Hooper) during her life, and I direct that it be continued to her husband Mr. Loring Howes, during his life, if he survives her.

ONE SHARE I give to my son Nathaniel Dearborn during his life, and I direct that it be continued to his wife Mary during her life, if she survives him.

ONE SHARE I give to Mr. Henry Plympton during his life. ONE SHARE is to be equally divided between my widowed sister Mrs. Ruth Crocket, of Gorham, in the State of Maine, and Mrs. Gratia Dugan of Boston;—for this purpose I direct that one half of the income of said share be paid to the agent of my sister, on application therefor by her order, from time to time, during her life; and that the other half of said income be paid to Mrs. Gratia Dugan during her life; for she merits this testimony of my recollection for her faithful assiduity while nursing my late wife, through her last years of feeble existence. In thus dividing a share, it is my intention, that after the decease of either of the two individuals above named, the *whole* of said share shall be paid to the survivor of the two, during her life.

I have thus given the whole income of my Real Estate to persons herein named, during their respective lives ; consequently at their decease their several portions will be relinquished, which are then to be appropriated as follows.

Whenever the proceeds of any one or more of the said ten shares shall be relinquished by the decease of their possessors, I direct that the following course be pursued respecting them. The progressive income of such relinquished shares shall from time to time be deposited in some productive fund, until the amount of that deposit shall be Three Thousand Dollars, including whatever interest may have been realized during the time. This sum is for the benefit of all my grand children who shall then be living ; and it is to be divided among them in equal portions, under the following restrictions. Those of either sex whose age at the time shall be twenty-one years or more, will be entitled to receive their respective portions on demand, either personally, or by their written order. If others have not then arrived at twenty-one years of age, their respective portions will be continued at interest in some productive fund, until that age entitles them to the amount of the principal, with such interest as it may have realized during their minority.

When Three Thousand Dollars shall be obtained in the manner above mentioned, for the benefit of my grand children, it will be necessary that they should all receive prompt information of the just portion of that sum, which will be paid to each of them, on application therefor. This duty, and that of paying to them the amount, will of course be discharged by the Executors of this Will. The repairs which will be requisite on any of the buildings belonging to the estate, will constitute another subject requiring their attention ; I

therefore direct that whenever they shall unanimously decide on the necessity or expediency of paying money for repairs, or for any other purpose, which in their opinion may contribute to the value of the estate, or to the comfort of its tenants, the required sum therefor shall be drawn from the succeeding income of the whole Estate. By this course the amount of such expense will be uniformly assessed on all the devisees, except the grand children, without subjecting any of them, to more than their just proportions thereof.

Fifth. It is my desire that my Real Estate may eventually be converted into a Charitable Fund, for alleviating the miseries of enfeebled and disconsolate sufferers.

I therefore direct that no part of it be sold by my Executors; and it is my wish, that whatever income it shall produce through future ages, may be devoted to the above purpose, after the decease of those to whom that income is herein given for their respective lives. Having bequeathed the sum of three thousand dollars to my grand children, from the first proceeds of all shares which shall be relinquished, I direct that after said amounts shall be realized therefrom, the future proceeds of those shares and all other shares and portions of my Real Estate, whenever they shall be relinquished by the decease of their respective possessors, shall be at the entire disposal of the Officers of the Boston Dispensary, to be by them appropriated to the charitable purpose expressed in the first passage of this section. This bequest is made with the design that at some future period, the Dispensary shall become sole proprietor of my present Real Estate; and it is my hope and expectation, that when any share or portion of the income of said Estate shall be relinquished for the use of that benevolent Institution, the Officers thereof will

pursue such course with the proceeds, as in their judgment shall appear best calculated to promote the comfort of suffering applicants for Food, Fuel, Clothing, Medical Assistance, or any other kind of relief. Under this impression, I shall offer no restrictions respecting the estate, after it shall be wholly relinquished to them, but submit to their united wisdom the decision, whether it shall be rented to tenants, or be sold, for placing the amount of sale in some productive Fund, for dedicating the interest of such fund to the relief of misery. I also bequeath to the Boston Dispensary that specimen of beautiful Sculpture, representing the Samaritan as engaged in the beneficent act recorded in the tenth chapter of Luke. It is suspended over a fire-place of my dwelling house in Avon Place where I wish it may remain, during the time in which that house shall be occupied by my wife, or either of her daughters, or by my son John M. Dearborn. After that dwelling shall be relinquished by them, either by their decease, or by their removal therefrom, that statue will be at the command of the Officers of the Dispensary; and it is my hope, that by their unanimous decision, it will be suspended in one of their apartments, as an appropriate emblem of charity. I direct that a copy of this Will be presented to the Officers of the Dispensary within one month after my decease, and that they be requested to appoint an agent annually, with whom my Executors may confer when necessary, until after the decease of all those devisees to whom I have herein bequeathed a portion of the income of my estate during their lives. At this period the whole property will revert to the Dispensary, provided the sum of three thousand dollars, has previously been reserved for my grand children, as expressed in the Fourth Section.

Sixth. I bequeath to my wife my Pew, in the First Church, Chauncy Place, and my Tomb, in the Burying Ground on the Common; I also bequeath to her my Household Furniture, my Library, and my Portraits, Pictures, and Engravings, excepting those articles which will be specified in the following passage, intended for my son John M. Dearborn. I bequeath to my son John M. Dearborn the Chime Clock, which was presented to me by my valued friend John Mycall, Esq. I also bequeath to that son the following articles, viz: the Portraits of his deceased mother and his sister Fanny; all my Wearing Apparel; my case of Mathematical Instruments, and all Mechanics' Tools of various kinds, which shall be found in my Dwelling House, at the time of my decease, except such as may be wanted by my Family for their own use. I remit all debts due to me on account of sums which I have advanced, for the comfort of my children and my grand children; and I bequeath to my grandson Samuel Dearborn, my watch, with its Gold Diary Key, as a small testimony of the high estimation in which I hold his exemplary conduct, during the period of my supporting him at New Ipswich; and if my decease shall occur before he arrives at the age of eighteen years, it is my request that the Watch be retained by my Executors, until he is of that age, and it then be delivered to him on demand, or to such person as shall present his written order therefor. The case of this Watch contains a beautiful specimen of embroidery, representing Two Hearts United, as an emblem of Friendship. It was sent to me from England, many years since, as a compliment, for the relief I had afforded to an English sufferer then in Boston; and I hope it will be duly appreciated by my grandson, to whom it is herein presented.

Seventh. As to the residue of my personal estate, I direct that it be devoted to the payment of such debts as may be due from me at the time of my decease; and if it should exceed the amount of those debts, the balance will be united with the whole income of my Real Estate, as constituting a part thereof; but if the amount of said debts should exceed the sum thus devoted to their discharge, the balance must be drawn from the whole income of the Real Estate, in annual instalments, or otherwise, in such manner as may be acceptable to the creditors, and least oppressive to those who shall then inherit that income. For accomplishing this purpose, I rely on the discretion of my Executors, without the sale of any part of my Real Estate.

The above mentioned residue of my personal estate consists principally in the products of my Literary and Mechanical Studies. Of the former, many copies are now on hand, of my Columbian Grammar, Perpetual Diary, and Lenient System. Of Mechanical Efforts so many expensive Models of useful Machines now remain, as testimonies of my past labor, that I will not here enumerate them; but will refer to one only, which I most earnestly wish may be subjected to experiment during my life or after its close.

This favorite invention is my model of a Relief Factory, which if erected in magnitude, would provide for destitute children the effectual means of earning their subsistence, by their own useful amusement. To the judgment of my Executors, I resign the disposal of my personal estate, and upon their efforts I rely, for the execution of my wishes, with a firm assurance of their devoted attention to both.

Eighth. It is my wish that the execution of this Will may be in charge of three Executors, from the time of my decease, until the whole income herein bequeathed

shall be relinquished, as before stated; I therefore request that whenever any one of the three shall be withdrawn, the two who remain will state the case to the Judge of Probate, and request him to appoint another, who may be nominated by them, provided the Judge approves their choice. It is to be expected, that a great part of the care required for collecting rents, paying legacies, and making repairs, will devolve on one individual of the three Executors, and justice requires that a suitable compensation be allowed therefor;—whether this sum shall be estimated by annual instalments, or by a fixed per centage, and what shall be its amount, are subjects to be decided by my Executors;—and I recommend to them the following course, viz.: that they select two judicious persons to unite with them in forming the decision, and that the same measure be pursued for the settlement of any doubt or dissatisfaction which may occur in future. This precautionary attention will operate to preserve harmony in all the transactions required by this Will, although many years will probably elapse, previous to closing the numerous cares assigned the Executors, for all of which I hope they will annually draw a liberal compensation from the income of the estate.

Ninth. While the buildings remain in as good condition as they are at this time, the amount of rent to be annually expected therefrom, will exceed Two Thousand Five Hundred Dollars, unless some uncommon delinquency of the tenants should occur, to diminish the income. The first assessment upon this income will be a due compensation to the Executors for their cares in collecting the rents, paying the legacies, making necessary repairs, &c., after which the remaining balance will be paid by them to the devisees herein named, in their respective proportions; and it is my desire, that

stated periods may be appointed for those payments during each succeeding year, and that those periods be not more frequent than four annually, except the payments to my wife, which are to be made as expressed in the first passage of the third section of this Will. Previous to our annual Thanksgiving, it has been my uniform practice to compliment my tenants with such articles as they may choose, to the amount of three dollars each, for celebrating the happy festival. It is my wish, that the same course may be pursued after my decease, and that the necessary sum therefor be annually drawn from the whole income of the estate. It is a dictate of civility, that all those who are interested in the bequests of a Will should be indulged with a copy thereof, if it be their desire; I therefore direct that a competent number of copies of this Will be prepared, for supplying the devisees who shall request it, with one copy each, as soon after my decease as may be convenient; and it is my desire, that all who shall then be tenants on the estate, may be presented with a similar compliment.

I also direct that seasonable notice be given to the devisees named in this Will, of the time when they may receive the first payment from the income of the estate, accompanied with the name of the individual who is appointed to pay it, and information of the particular periods of each year which the Executors have assigned for being ready to make payment of future dividends. And if any one of the devisees shall neglect to make application for payment of the portion allotted for him or her, during a period of one year, from the time assigned for making such payment, I direct that the amount of such portion be transferred to the income of my estate, as constituting an increase thereof. A vacant lot of Land in Cambridgeport constitutes a part of my

Real Estate, which may at some future time become productive. The Deed is recorded in the Registry of Middlesex, Book 298, Page 523. The lot is 117 feet in length and 60 in breadth, and being located between a spacious street and a canal, it is very eligibly situated for a Dwelling House or a Factory, with competent space to contain both if required. If any judicious resident of that place could be engaged as an Agent for leasing the lot, during such length of time as would warrant building thereon, it would produce a small income;—but my Executors will probably devise some better course to be pursued.

Tenth. I hereby appoint my wife Hannah Dearborn,—Benjamin Bangs, Esquire,—and Henry Plympton, to be the Executors of this my last Will and Testament; and I revoke all former Wills made by me; and it is my request, that the Judge of Probate for the County of Suffolk, will appoint any new Executor or Executors, whenever such appointment shall be necessary, to preserve the trusts herein created. And I direct that my said Executors, and such Executors as may be appointed by said Judge, shall be severally answerable, each for his own doings, receipts, acts, and defaults only,—and not for the doings, receipts, acts, and defaults, of the other or others. In witness whereof, I hereunto set my hand and seal to this my last Will and Testament, consisting of twelve pages, divided into ten sections, on three sheets, this second day of July, in the year of our Lord, one thousand eight hundred and thirty-two.

BENJAMIN DEARBORN. L. S.

Signed, sealed, published, and declared, by said Benjamin Dearborn, to be his last Will and Testament, in presence of us, who at his request, in his presence, and in presence of each other, hereunto subscribe our names as witness.

JOHN SUTER,
PRENTISS HOBBS,
S. WILLARD, JR.

SUFFOLK, ss.

Commonwealth of Massachusetts.

At a Probate Court holden at Boston, within
L. S. and for the County of Suffolk, on the twenty-
third day of April, in the year 1838, by the
Honorable John Heard, Esquire, Judge of the
Probate of Wills, &c.

The annexed Will being presented by Hannah Dearborn, Widow, Benjamin Bangs, Merchant, and Henry Plympton, Balance Manufacturer, the Executors therein named, for Probate, and the said Executors having given public notice pursuant to my order, which is on file in said Court, to all persons interested therein to appear here this day and shew cause, if any they have, either for or against the Probate thereof, and no person appearing to object thereto, John Suter, Prentiss Hobbs, and Simon Willard, Junior, appear and make oath, that they saw the said Testator sign, seal, and heard him publish the same instrument as his last Will and Testament; and that he was then, to the best of their discernment, of a sound disposing mind and memory, and that they subscribed their names thereto, as witnesses, in the presence of said Testator and of each other; and I do prove, approve and allow the same, and order it to be recorded.—Given under my hand, and seal of office, the day and year above written.

JOHN HEARD, *Judge of Probate.*

A true copy.—Attest,

OLIVER W. B. PEABODY, *Reg.*